

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 JAMES MAYO,

No. C-08-0058 MMC

12 Plaintiff,

ORDER REMANDING ACTION

13 v.

14 A.O. SMITH CORPORATION, et al.,

15 Defendants

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19 On November 21, 2007, plaintiff filed the instant case in state court, alleging therein
20 claims arising under state law. On January 4, 2008, defendant Foster Wheeler LLC
21 ("Foster Wheeler") removed the complaint, alleging the district court has jurisdiction under
22 28 U.S.C. § 1446(b) "because Foster Wheeler was acting under an officer or agency of the
23 United States." (See Notice of Removal ¶ 25.) Thereafter, on January 22, 2008, plaintiff
24 filed a stipulation in which plaintiff and Foster Wheeler state they "stipulate to immediately
25 remand this case to the Superior Court of California," and request the Court remand the
26 matter. (See Worsey Decl. Ex. A.)

27 Because the only removing defendant, Foster Wheeler, no longer seeks to pursue
28 its allegation that the Court has jurisdiction over the instant matter, and there being no

1 basis from the face of the complaint to suggest a district court otherwise would have
2 subject matter jurisdiction over any claim alleged therein, the Court hereby GRANTS
3 plaintiff's motion to remand and REMANDS the matter to the Superior Court of California, in
4 and for the County of Alameda.

5 Plaintiff is hereby DIRECTED to serve a copy of this order on all defendants that
6 have appeared herein.¹

7 **IT IS SO ORDERED.**

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9 Dated: January 25, 2008


MAXINE M. CHESNEY
United States District Judge

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27 ¹Other than Foster Wheeler, which removed the case, and General Dynamics
28 Corporation, which filed an answer after the matter was removed, no defendant has been
placed on the district court's service list.